

**CHAPTER 5.5. STORMWATER AND  
URBAN RUNOFF  
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This Chapter shall be known as the "City of Westlake Village Stormwater Management and Discharge Control Ordinance."

(Ord. No. 143-96, Enacted, 12/11/96)

**5.5.010. Purpose and Intent.**

A. The purpose of this Chapter is to protect the future health, safety and general welfare of the citizens of the City and the water quality of the receiving waters of the County of Los Angeles and surrounding coastal areas by:

1. Reducing pollutants in stormwater discharges to the maximum extent practicable;

2. Regulating illicit connections and illicit discharges and thereby reducing the level of contamination of stormwater and urban runoff into the municipal separate storm sewer system; and

3. Regulating nonstormwater discharges to the municipal storm sewer system.

B. The intent of this Chapter is to protect and enhance the quality of watercourses, water bodies, and wetlands within the City in a manner consistent with the federal Clean Water Act, the California Porter-Cologne Water Quality Control Act and the municipal NPDES permit.

C. This Chapter is also intended to provide the City with the legal authority necessary to control discharges to and from those portions of the municipal separate storm sewer system over which it has jurisdiction as required by the municipal NPDES permit, and thereby fully and timely comply with the terms of the municipal NPDES permit while the County-wide Storm Water Management Plan (CSWMP) and the Watershed Management Area Plan (WMAP) are being developed under the municipal NPDES permit. This Chapter shall be amended periodically to implement the CSWMP and WMAP, and other programs developed under the municipal NPDES permit.

D. This Chapter also sets forth requirements for the construction and operation of certain "commercial development", "new development" and "redevelopment" and other projects (as further defined herein) which are intended to ensure compliance with the stormwater mitigation measures prescribed in the current version of the Standard Urban Storm Water Mitigation Plan (SUSMP) approved by the Regional Water Quality Control Board-Los Angeles Region, and on file in the office of the City Clerk. This Chapter authorizes the Authorized Enforcement Officer to define and adopt applicable Best Management Practices and other stormwater pollution control measures, to grant waivers from

SUSMP requirements, as provided herein, to cite infractions and to impose fines pursuant to this Chapter. Except as otherwise provided herein, the Authorized Enforcement Officer shall administer, implement and enforce the provisions of this Chapter.

(Ord. No. 143-96, Enacted, 12/11/96; Ord. No. 167-00, Amended, 10/11/00; Ord. No. 178U-02, Amended, 7/22/02; Ord. No. 178-02, Amended, 9/11/02)

#### **5.5.015. Definitions.**

Except as specifically provided herein, any term used in this Chapter shall be defined as that term is defined in the current municipal NPDES permit, or in the current version of the Standard Urban Storm Water Mitigation Plan ("SUSMP") approved by the Regional Water Quality Control Board-Los Angeles Region, or if it is not specifically defined in either the municipal NPDES permit or the SUSMP, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. If the definition of any term contained in this Chapter conflicts with the definition of the same term in the current municipal NPDES permit or the current version of the SUSMP, then the definition contained in the municipal NPDES permit, the definition contained in the SUSMP shall govern. The following words and phrases shall have the following meanings when used in this Chapter:

"Area susceptible to runoff" means: (1) any surface directly exposed to precipitation; and (2) any surface in the path of runoff caused by precipitation, provided that the path leads off the parcel on which the surface is located.

"Authorized enforcement officer" means the City's Code Enforcement Officer and the City's Director of Planning or the Director's designee.

"Automotive service facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539 (as amended).

"Best Management Practices (BMPs)" means activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges and any program, technology, process, siting criteria, operational methods or measures, or engineered systems, which when implemented prevent, control, remove, or reduce pollution. Examples of BMPs may include public education and outreach, proper planning of development projects, proper cleaning of catch basin inlets, and proper sludge- or waste-handling and disposal, among others.

"Commercial development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to stormwater; mechanical permit work; or sign permit work.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial,

commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Directly adjacent" means situated within two hundred (200) feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Discharge" when used without qualification means the discharge of a pollutant.

"Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to waters of the United States from any point source or, any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

"Discharged directly" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discretionary project" shall be defined as set forth in 14 California Code of Regulations Section 15357, as amended, and means a project which requires the exercise of judgment or deliberation when the City decides to approve or disapprove a particular activity, as distinguished from situations where the City

merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

"Disturbed area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Environmentally sensitive area" or "ESA" means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to stormwater mitigation requirements are areas designated as Significant Ecological Areas by the County of Los Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976) and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game's Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the Basin Plan as supporting the Rare, Threatened, or Endangered Species (RARE) beneficial use; and an area identified by the City as environmentally sensitive.

"Good housekeeping practices" means common practices related to the storage, use or cleanup of materials, performed in a manner that minimizes the discharge of pollutants. Examples include, without limitation, purchasing only the quantity of materials to be used at a given time, use of alternative and less environmentally harmful products, cleaning of spills and leaks, and storing materials in a manner that will contain any leaks or spills.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five (25) percent or greater and where grading contemplates cut or fill slopes.

"Illicit connection" means any human-made conveyance that is connected to the MS4 without a permit, excluding roof-drains and other similar connections. Examples include, without limitation, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.

"Illicit discharge" means any discharge to the storm drain system that is prohibited under local, State or federal statutes, ordinances, codes or regulations. Illicit discharges include all nonstormwater discharges except discharges pursuant to a separate NPDES permit and discharges that are exempted or conditionally exempted in accordance with Section II of the municipal NPDES permit.

"Infiltration" means the downward entry of water into the surface of the soil.

"Material" means any substance including, without limitation, garbage and debris; lawn clippings, leaves, and other vegetation; fertilizer; biological and fecal waste; sediment and sludge; oil and grease; gasoline; paints; solvents; cleaners; and any fluid or solid containing chemicals.

"Municipal NPDES Permit" means the "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles, and the Incorporated Cities Therein, Except the City of Long Beach" (Order No. 01-182), (NPDES Permit No. CAS00401), dated December 13, 2001, issued by the California Regional Water Quality Control Board -- Los Angeles Region, and any successor permit to that permit.

"Municipal separate storm sewer system" or "MS4" means streets, gutters, conduits, natural or artificial drains, channels and watercourses, or other facilities that are owned, operated, maintained or controlled by the City or owned by Los Angeles County or Caltrans and located within the boundaries of the City and used for the purpose of collecting, storing, transporting, or disposing of stormwater.

"New development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Nonstormwater discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater.

"NPDES permit" means any waste discharge requirements issued by the Regional Board or the State Water Resources Control Board as an NPDES permit pursuant to Water Code §§ 13370 (other than the municipal NPDES permit).

"One hundred thousand (100,000) square foot commercial development" means any commercial development that creates at least one hundred thousand (100,000) square feet of impermeable area, including parking areas.

"Parking lot" means land area or a facility for the parking or storage of motor vehicles used for businesses, commerce, industry or personal use with a lot size of five thousand (5,000) square feet or more of surface area, or with twenty-five (25) or more parking spaces.

"Planning priority projects" means those projects that are required to incorporate appropriate stormwater mitigation measures into the design plan for their respective project, including:

1. Ten (10) or more unit homes (includes single-family homes, multi-family homes, condominiums, and apartments);
2. A one hundred thousand (100,000) or more square feet of impervious surface area industrial / commercial development;
3. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539);

4. Retail gasoline outlets;
5. Restaurants (SIC 5812);
6. Parking lots five thousand (5,000) square feet or more of surface area or with twenty-five (25) or more parking spaces;
7. Redevelopment projects in subject categories that meet redevelopment thresholds;
8. Projects located in or directly adjacent to or discharging directly to an ESA, which meet the thresholds described herein; and
9. Those projects that require the implementation of a site-specific plan to mitigate post-development stormwater for new development not requiring a SUSMP but which may potentially have adverse impacts on post-development stormwater quality, and where the following project characteristics exist:
  - a. Vehicle or equipment fueling areas;
  - b. Vehicle or equipment maintenance areas, including washing and repair;
  - c. Commercial or industrial waste handling or storage;
  - d. Outdoor handling or storage of hazardous materials;
  - e. Outdoor manufacturing areas;
  - f. Outdoor food handling or processing;
  - g. Outdoor animal care, confinement, or slaughter; or
  - h. Outdoor horticulture activities.

"Pollutant" means those pollutants defined in Section 502(6) of the federal Clean Water Act (33 U.S.C. § 1362(6)), or incorporated into California Water Code § 13373. Examples of pollutants include, without limitation, the following:

1. Commercial and industrial waste such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge;
2. Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium; and nonmetals such as phosphorus and arsenic;
3. Petroleum hydrocarbons such as fuels, lubricants, surfactants, oils, solvents, coolants and grease;
4. Eroded soils, sediment and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State.
5. Animal wastes, including, without limitation, discharges from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities.
6. Substances which have a pH less than six (6) or greater than nine (9), or unusual coloration or turbidity, or substantial levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated stormwater, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been reduced or eliminated to the maximum extent practi-

cable. In an enforcement action, the burden shall be on the person who is the subject of such action to establish the reduction or elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.

"Project" means all development, redevelopment, and land disturbing activities.

"Redevelopment" means land disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000) square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition: (1) the expansion of a building footprint; (2) addition or replacement of a structure; (3) replacement of impervious surface that is not part of a routine maintenance activity; and (4) land disturbing activities related to structural or impervious surfaces. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

"Regional Board" means the California Regional Water Quality Control Board — Los Angeles Region.

"Restaurant" means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. (SIC code 5812).

"Retail gasoline outlet" means any facility engaged in selling gasoline and lubricating oils.

"Runoff" means any runoff including stormwater and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow

either contaminated with pollutants or uncontaminated, and nuisance flows.

"Significant redevelopment" means land-disturbing activity that results in the creation or addition or replacement of five thousand (5,000) square feet or more of impervious surface area on an already developed site.

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source control BMP" means any schedule of activities, prohibition of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"Standard Urban Storm Water Mitigation Plan" or "SUSMP" means the current version of the Standard Urban Storm Water Mitigation Plan approved by the Regional Board, and on file in the office of the City Clerk of this City, and the NPDES Permit models that have been approved by the Executive Officer of the Regional Board for implementation to control storm water pollution from new development and redevelopment or any project specifically identified in Section 5.5.041(A).

"Storm event" means a rainfall event that produces more than 0.1 inch of precipitation and that is separated from the previous storm event by at least seventy-two (72) hours of dry weather.

"Stormwater runoff" means that part of precipitation (rainfall or snowmelt) which travels via flow across a surface to the MS4, or receiving waters, from any surface, whether impervious, semi-pervious or pervious.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse im-

pacts of stormwater and urban runoff pollution (e.g. canopy, structural enclosure). Structural BMPs may include both treatment control BMPs and source control BMPs.

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

"Treatment control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

"Urban runoff" means surface water flow produced by nonstormwater resulting from residential, commercial, and industrial activities involving the use of potable and nonpotable water.

(Ord. No. 143-96, Enacted, 12/11/96; Ord. No. 167-00, Amended, 10/11/00; Ord. No. 178U-02, Amended, 7/22/02; Ord. No. 178-02, Amended, 9/11/02)

#### **5.5.020. Construction and Application.**

This Chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and legislation that amends or supplements that Act, applicable implementing regulations, the municipal NPDES permit, and any amendment, revision or reissuance of that permit.

(Ord. No. 143-96, Enacted, 12/11/96)

#### **5.5.025. Prohibited Activities.**

A. Illicit Discharges and Connections. It is prohibited to commence, establish, use, maintain, or continue any illicit connection to the municipal separate storm sewer system or any illicit discharge to the municipal separate storm sewer system. This prohibition against illicit connections applies to the use,

maintenance, or continuation of any illicit connection, whether that connection was established prior to, or after the effective date of this Chapter.

B. Littering. It is prohibited to throw, deposit, place, leave, maintain, keep, or permit to be thrown, deposited, placed, left, or maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any private plot of land in the City, so that the same might be or become a pollutant. No person shall throw or deposit litter in any fountain, pond, lake, stream, or other body of water within the City. This subsection shall not apply to refuse, rubbish or garbage deposited in containers, bags or other appropriate receptacles which are placed in designated locations for regular solid waste pick up and disposal.

C. Disposal of Landscape Debris. It is prohibited to intentionally dispose of leaves, dirt, or other landscape debris into the municipal separate storm sewer system.

D. Nonstormwater Discharges. The following nonstormwater discharges into the municipal separate storm sewer system are prohibited unless in compliance with a separate NPDES permit or pursuant to a discharge exemption by the Regional Board, the Regional Board's Executive Officer, or the State Water Resources Control Board:

1. The discharge of untreated wash waters to the MS4 when gas stations, auto repair garages, or other type of automotive service facilities are cleaned;

2. The discharge of untreated wastewater to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

3. Discharges to the MS4 from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid or antifreeze, is undertaken, unless prevention of such discharge is not practicable;

4. Discharges of untreated runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

5. Discharges of commercial and municipal swimming pool filter backwash to the MS4;

6. Discharges of untreated runoff from the washing of toxic materials from paved or unpaved areas to the MS4; provided, however, that non-industrial and noncommercial activities which incidentally generate urban runoff, such as the hosing of sidewalks, and the noncommercial hand-washing of cars, shall be excluded from this prohibition;

7. Discharges to the MS4 from washing impervious surfaces in industrial and commercial areas which results in a discharge of untreated runoff to the MS4, unless washing is specifically required by health and safety regulations of the State, the City, or Los Angeles County, or permitted under a separate NPDES permit, or prevention of the discharge is not practicable;

8. Discharges from the washing of concrete trucks and other construction equipment;

9. Discharges to the MS4 of any pesticide, fungicide, or herbicide banned by the USEPA or the California Department of Pesticide Regulation; and

10. The disposal of hazardous wastes into trash containers used for municipal trash disposal where such disposal causes or threatens to cause a direct or indirect discharge to the MS4.

E. Discharges in Violation of the Municipal NPDES Permit. Any discharge that would result in or contribute to a violation of the municipal NPDES permit, either separately or in combination with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of each person causing or responsible for the discharge, and each such person shall be responsible for defending, indemnifying and holding harmless the City from all losses, liabilities, claims, or causes of actions in any administrative or judicial action relating to such discharge.

(Ord. No. 143-96, Enacted, 12/11/96)

**5.5.030. Exempted Discharges, Conditionally Exempted Discharges, or Designated Discharges.**

Discharges from those activities specifically identified in, or pursuant to, Part 2, Section II.C of the municipal NPDES permit as being exempted discharges, conditionally exempted discharges, or designated discharges shall not be considered a violation of this Chapter, provided that any applicable BMPs developed pursuant to the municipal NPDES permit are implemented to minimize any adverse impacts from such identified activities.

(Ord. No. 143-96, Enacted, 12/11/96)

**5.5.035. Good Housekeeping Provisions.**

Owners and occupants of property within the City shall comply with the following requirements:

A. Septic Waste. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste to precipitation in an area where a discharge to City streets or the MS4 may occur.

B. Use of Water. Runoff of water used for irrigation purposes shall be minimized to the maximum extent practicable. Runoff of water from the permit-



ted washing down of paved areas shall be minimized to the maximum extent practicable.

C. Storage of Materials, Machinery, and Equipment. Machinery or equipment that is to be repaired or maintained in areas susceptible to or exposed to stormwater, shall be placed in a manner so that leaks, spills and other maintenance-related pollutants are not discharged to the MS4.

D. Removal and Disposal of Debris from Industrial/Commercial Motor Vehicle Parking Lots. Industrial or commercial motor vehicle parking lots with more than twenty-five (25) parking spaces that are located in areas potentially exposed to stormwater shall be swept regularly or other equally effective measures shall be utilized to remove debris from such parking lots.

E. Food Wastes. Food wastes generated by non-residential food service and food distribution sources shall be properly disposed in a manner so that such wastes are not discharged to the municipal separate storm sewer system.

F. Best Management Practices. Best management practices shall be used in areas exposed to stormwater for the removal and lawful disposal of all fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries, or other materials which have potential adverse impacts on water quality.

(Ord. No. 143-96, Enacted, 12/11/96)

**5.5.040. Requirements for Industrial, Commercial and Construction Activities.**

Each industrial discharger, discharger associated with construction activity, or other discharger described in any general stormwater permit addressing discharges and issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board shall comply with all requirements of such permit. Each discharger

identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required, in a form acceptable to the City, prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the City.

(Ord. No. 143-96, Enacted, 12/11/96)

**5.5.041. Standard Urban Storm Water Mitigation Plan (SUSMP) Requirements for New Development and Redevelopment Projects.**

A. Projects Requiring a SUSMP. The following projects for new development and redevelopment, if subject to discretionary project approval in the zoning ordinance, shall require a Storm Water Mitigation Plan which complies with the most recent SUSMP and the current Municipal NPDES Permit:

1. Ten (10) or more unit homes (includes developments of single-family homes, condominiums and apartments);
2. A one hundred thousand (100,00) or more square feet of impervious surface area industrial/commercial development;
3. Automotive Service facilities (SIC 5013, 5014, 5542, 7532-7534 and 7536-7539);
4. Retail gasoline outlets;
5. Restaurants (SIC 5812);
6. Parking lots five thousand (5,000) square feet or more of surface area or with twenty-five (25) or more parking spaces;
7. Redevelopment projects in subject categories that meet redevelopment thresholds;

8. Any new development or redevelopment project located in or directly adjacent to or discharging directly into an environmentally sensitive area, where the development will:

a. Discharge stormwater and urban runoff that is likely to impact a sensitive biological species or habitat; and

b. Create two thousand five hundred (2,500) square feet or more of impervious surface area.

B. Incorporation of SUSMP into Project Plans.

1. An applicant for a new development or a redevelopment project identified in Subsection A of this Section above shall incorporate into the applicant's project plans a Storm Water Mitigation Plan ("SWMP"), which includes those Best Management Practices necessary to control stormwater pollution from construction activities and facility operations, as set forth in the SUSMP applicable to the applicant's project. Structural or treatment control BMPs (including, as applicable, post-construction treatment control BMPs) set forth in project plans shall meet the design standards set forth in the SUSMP and the current Municipal NPDES Permit.

2. If a project applicant has included or is required to include structural or treatment control BMPs in project plans, the applicant shall provide verification of maintenance provisions. The verification shall include the applicant's signed statement, as part of its project application, accepting responsibility for all structural and treatment control BMP maintenance until such time, if any, the property is transferred.

3. A new single-family hillside home development or redevelopment shall include mitigation measures to:

a. Conserve natural areas;

b. Protect slopes and channels;

c. Provide storm drain system stenciling and signage;

d. Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and

e. Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

4. The following categories of planning priority projects shall be designed to implement post-construction treatment controls that meet the standards set forth in the SUSMP and the current Municipal NPDES Permit, to mitigate stormwater pollution:

a. Single-family hillside residential developments of one (1) acre or more of surface area;

b. Housing developments (including single-family homes, multi-family homes, condominiums, and apartments) of ten (10) units or more;

c. A one hundred thousand (100,000) square feet or more impervious surface area industrial / commercial development;

d. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) (five thousand (5,000) square feet or more of surface area);

e. Retail gasoline outlets (five thousand (5,000) square feet or more of impervious surface area and with projected average daily traffic (ADT) of one hundred (100) or more vehicles). [Sub-surface Treatment Control BMP's which may endanger public safety (i.e., create an explosive environment) are considered not appropriate];

f. Restaurants (SIC 5812) (five thousand (5,000) square feet or more of surface area);

g. Parking lots five thousand (5,000) square feet or more of surface area or with twenty-five (25) or more parking spaces;

h. Projects located in, adjacent to or discharging directly to an environmentally sensitive area that meet threshold conditions identified in Subsection (A)(8) of this Section; and

i. Redevelopment projects in subject categories that meet redevelopment thresholds.

5. The following categories of projects which otherwise do not require a SUSMP, but which may potentially have adverse impacts on post-development stormwater quality, shall be designed to include post-construction treatment controls to mitigate stormwater pollution and the implementation of a site-specific plan to mitigate post-development stormwater for new development and redevelopment where one or more of the following project characteristics exist:

a. Vehicle or equipment fueling areas;

b. Vehicle or equipment maintenance areas, including washing and repair;

c. Commercial or industrial waste handling or storage;

d. Outdoor handling or storage of hazardous materials;

e. Outdoor manufacturing areas;

f. Outdoor food handling or processing;

g. Outdoor animal care, confinement, or slaughter; or

h. Outdoor horticulture activities.

6. A SUSMP, or site-specific requirements, including post-construction stormwater mitigation, shall be required for all planning priority projects that undergo significant redevelopment in their respective categories.

7. Existing single-family structures are exempt from the redevelopment requirements set forth in this Chapter.

C. Issuance of Discretionary Permits. No discretionary permit may be issued for any new development or redevelopment project identified in Subsection A above until the authorized enforcement officer confirms that either (1) the project plans comply with the applicable SUSMP requirements; or (2) compliance with the applicable SUSMP requirements is impracticable for one or more of the reasons set forth in paragraph E below regarding issuance of waivers. Where redevelopment results in an alteration to more than fifty (50) percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-development stormwater quality control requirements, the entire project must be mitigated. Where redevelopment results in an alteration to less than fifty (50) percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-development stormwater quality control requirements, only the alteration must be mitigated, and not the entire development.

D. Issuance of Certificates of Occupancy. As a condition for issuing a certificate of occupancy for a new development or redevelopment project identified in Subsection A above, the authorized enforcement officer shall require facility operators and/or owners to build all the stormwater pollution control best management practices and structural or treatment control BMPs that are shown on the approved project plans and to submit a signed certification statement

stating that the site and all structural or treatment control BMPs will be maintained in compliance with the SUSMP and other applicable regulatory requirements.

E. Granting of Waiver. The authorized enforcement officer shall have the authority to grant a waiver to a development or redevelopment project from the requirements of the SUSMP, if impracticability for a specific property can be established by the project applicant. A waiver of impracticability may be granted only when all structural or treatment control BMPs have been considered and rejected as infeasible. Recognized situations of impracticability are limited to the following, unless approved by the Regional Board:

1. Extreme limitations of space for treatment on a redevelopment project;
2. Unfavorable or unstable soil conditions at a site to attempt infiltration; and
3. Risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten (10) feet from the soil surface.

F. Transfer of Properties Subject To Requirement For Maintenance of Structural and Treatment Control BMPs.

1. The transfer or lease of a property subject to a requirement for maintenance of structural and treatment control BMPs shall include conditions requiring the transferee and its successors and assigns to either (a) assume responsibility for maintenance of any existing structural or treatment control BMP; or (b) to replace an existing structural or treatment control BMP with new control measures or BMPs meeting the then current standards of the City and the SUSMP. Such requirement shall be included in any sale or lease agreement or deed for such prop-

erty. The condition of transfer shall include a provision that the successor property owner or lessee conduct maintenance inspections of all structural or treatment control BMPs at least once a year and retain proof of inspection.

2. For residential properties where the structural or treatment control BMPs are located within a common area which will be maintained by a homeowner's association, language regarding the responsibility for maintenance shall be included in the project's conditions, covenants and restrictions. Printed educational materials will be required to accompany the first deed transfer to highlight the existence of the requirement and to provide information on what stormwater management facilities are present, signs that maintenance is needed, and how the necessary maintenance can be performed. The transfer of this information shall also be required with any subsequent sale of the property.

3. If structural or treatment control BMPs are located within an area proposed for dedication to a public agency, they will be the responsibility of the developer until the dedication is accepted.

G. CEQA. Provisions of this Section shall be complimentary to, and shall not replace, any applicable requirements for stormwater mitigation required under the California Environmental Quality Act.

(Ord. No. 167-00, Enacted, 10/11/00; Ord. No. 178U-02, Amended, 7/22/02; Ord. No. 178-02, Amended, 9/11/02)

#### **5.5.045. Enforcement.**

A. Violations Deemed a Public Nuisance.

1. Any condition caused or permitted to exist in violation of:

a. Any of the provisions of this Chapter; or

b. Any failure to comply with any applicable requirement of either the SUSMP or an approved stormwater mitigation plan with respect to a property; or

c. Any false certification or verification, or any failure to comply with a certification or verification provided by a project applicant or the applicant's successor in interest; or

d. Any failure to properly operate and maintain any structural or treatment control BMP on a property in accordance with an approved stormwater mitigation plan or the SUSMP; is hereby determined to be a threat to the public health, safety and welfare, is declared and deemed a public nuisance, and may be abated or restored by any authorized enforcement officer, and a civil or criminal action to abate, enjoin or otherwise compel the cessation of such nuisance may be brought by the City Attorney.

2. The cost of such abatement shall be borne by the owner of the property from which the discharge originated and the cost shall be assessed to the owner of that property, pursuant to the procedure for recovery of costs set forth in Chapter 4.7 of this Code.

3. If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the City Manager or the City Manager's designee shall so declare. The failure of any person to take appropriate annual precautions to prevent stormwater pollution after written notice of a determination under this subsection shall constitute a public nuisance and a violation of this Chapter.

B. Concealment. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

C. Civil Actions. In addition to any other remedies provided in this Section, any violation of this

Section may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;

2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from violation;

4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

D. Administrative Enforcement Powers. In addition to the other enforcement powers AND

remedies established by this Chapter, any authorized enforcement officer has the authority to utilize the following administrative remedies:

1. Cease and Desist Orders. When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this Chapter, the officer may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (a) comply with the requirement, (b) comply with a time schedule for compliance, and (c) take appropriate remedial or preventive action to prevent the violation from recurring.

2. Notice to Clean. Whenever an authorized enforcement officer finds any oil, earth, debris, vegetation, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in pollutants entering the MS4 or result in a non-stormwater discharge to the MS4, the officer may give notice to the owner or occupant of the adjacent property to remove such oil, earth, debris, vegetation, tin cans, rubbish, refuse, waste or other material, in any manner that the officer may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

E. Penalties. Violation of this Chapter shall be punishable as a misdemeanor as provided in Chapter 1.2 of this Code. Each day that a violation continues shall constitute a separate offense.

F. Permit Revocation. To the extent the City makes compliance with a provision of this Chapter, or any identified BMP, a condition of approval to the issuance of a permit or license, any person in violation of such condition is subject to the permit revocation procedures set forth in this Code.

G. Remedies. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for in this Chapter shall be cumulative and not exclusive.

(Ord. No. 143-96, Enacted, 12/11/96; Ord. No. 167-00, Amended, 10/11/00)

#### **5.5.050. No Taking.**

The provisions of this Chapter shall not be construed or operate to deprive any property owner of substantially all of the market value of such owner's property or otherwise constitute an unconstitutional taking without compensation.

(Ord. No. 143-96, Enacted, 12/11/96)